UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,876	09/28/2001	Eduardo Perez	M-12263 US	4257

7590 01/11/2005		**EXAMINER**
Philip W. Woo		LE, VU
c/o SIDLEY AUSTIN BROWN & WOOD LLP		
555 CALIFORNIA STREET	**ART UNIT**	**PAPER NUMBER**
SUITE 5000	2613	
SAN FRANCISCO, CA 94104-1715		

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _28 September 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _1/02_.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, *except* that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

2.   **Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Boyce,**

US 6,012,091.

Re claim 1, Boyce discloses a method for creating streaming video data (fig. 3,

col. 9, line 46 – col. 11, line 9), the method comprising:

compressing video data to a first intermediate data file using a first transform

(120; Boyce discloses the incoming bitstream inputted to bitstream storage 120 is a

compressed bitstream, thus compressing to yield a first intermediate data file is

inherent);

compressing the first intermediate data file to a second intermediate data file

using a second transform (330);

compressing the second intermediate data file to a streaming video data file

using a third transform (150).

3.   **Claims 1-2, 4, 6-11 are rejected under 35 U.S.C. 102(e) as being anticipated
by Seo, US 6,798,980.**

Re claim 1, Seo discloses a method for creating streaming video data (figs. 1-3,
Summary of the Invention), the method comprising:

compressing video data to a first intermediate data file using a first transform
(col. 3, lines 33-39; Seo discloses MPEG-2 format file as a first intermediate data file.
MPEG-2 serves as a first transform as claimed for compressing raw uncompressed
video input);

compressing the first intermediate data file to a second intermediate data file
using a second transform (col. 3, lines 33-39; Seo discloses converting MPEG-2 format
file into MPEG-1 format file. MPEG-1 serves as a second transform for converting
MPEG-2 format file into MPEG-1 format file as claimed);

compressing the second intermediate data file to a streaming video data file
using a third transform (30, col. 3, lines 1-11, the AV decoder serves to convert MPEG-1
format data into AV format data which is streamed to the user's set top box STB).

Re claim 2, the method according to claim 1, wherein the first intermediate data
file comprises an MPEG-2 data file. (See col. 3, lines 33-39).

Re claim 4, the method according to claim 1, wherein the video data further
comprises NTSC format video data. (See col. 1, line 22).

Re claim 6, the method according to claim 1, further comprising de-interlacing the
first intermediate data file using the first transform. (Seo discloses converting MPEG-2
data format into MPEG-1 data format. MPEG-2 data format may be interlaced or

progressive. MPEG-1 data format is progressive only. Thus, in Seo, an interlaced

MPEG-2 data format inherently would require de-interlacing to convert it to MPEG-1

data format).

Re claim 7, the method according to claim 1, wherein the first intermediate data

file is encoded at rate of 5 Mbps or more. (See col. 1, lines 27-28).

Re claim 8, the method according to claim 1, wherein the streaming data file is

encoded at a rate of 1.5 Mbps or less. (It is noted that MPEG-1 inherently produces

data format with a rate up to 1.5 Mbps. Thus, the output bitstream of the MPEG-1 coder

to be converted by the AV decoder 30 into AV streaming data file for reproduction

inherently would fall within the range of 1.5 Mbps or less).

Re claim 9, the method according to claim 1, further comprising transmitting the

streaming data file over a network. (See col. 3, lines 4-5, i.e. broadcast network).

Re claim 10, the method according to claim 1, wherein the first intermediate data

is encoded at about 30 frames per second and wherein the compressing the first

intermediate data file to a second intermediate data file using a second transform further

includes encoding the second intermediate data file at about 30 frames per second or

less. (In Seo, MPEG-2 represents first intermediate data format and MPEG-1

represents second intermediate data format as claimed. It is noted that both MPEG-2

and MPEG-1 inherently reproduce video data at a rate of about 30 frames per second).

Re claim 11, the method according to claim 1, wherein the compressing the first

intermediate data file to a second intermediate data file using a second transform is

performed in transparent mode. (Applicant described a "transparent mode" as a mode

of compressing video data file into compressed video data file such that, when played,

the human eye is incapable of distinguishing between the video data and the

compressed video data file – see para 0023 of spec. In Seo, that would mean the

MPEG-1 compressed data file when decoded at the AV decoder 30 at a rate of 30

frames per second would achieve the "transparent mode" as claimed).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   **Claims 3, 5, 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable**

over Seo, US 6,798,980.

Re claim 3, the method according to claim 1, wherein the second intermediate

data file comprises an unconstrained MPEG-1 data file. Seo discloses the second

intermediate data file as MPEG-1 data file (see col. 3, lines 33-39), but not

"unconstrained MPEG-1 data file as claimed. However, Official Notice is taken to note

that unconstrained MPEG-1 data file implies MPEG-1 compressed bitstream with a

variable data rate (VBR) that has no set maximum and minimum. This is notoriously

well known in the art and would have been obvious to implement in Seo for the benefit

of higher quality reproduced images. The reason unconstrained MPEG-1 VBR is not

utilized often is because of greater bandwidth requirement.

Re claim 5, the method according to claim 1, wherein the first intermediate data file further comprises an MPEG-2 data file and the second intermediate data file further comprises an unconstrained MPEG-1 data file, the compressing the first intermediate data file to a second intermediate data file further comprising converting the MPEG-2 data file to the unconstrained MPEG-1 data file.

(Claim 5 has been analyzed and rejected w/r to claims 1-3 above).

Re claim 12, the claim has been analyzed and rejected w/r to claims 1-3 above.

Re claim 13, the claim has been analyzed and rejected w/r to claims 1-3 and 11 above.

Re claim 14, the claim has been analyzed and rejected w/r to claims 1 & 7 above.

Re claim 15, the claim has been analyzed and rejected w/r to claims 1 & 4 above.

Re claim 16, the claim has been analyzed and rejected w/r to claims 1 & 6 above.

Re claim 17, the claim has been analyzed and rejected w/r to claims 1 & 11 above.

Re claim 18, the claim has been analyzed and rejected w/r to claims 1 & 10 above.

Re claim 19, the claim has been analyzed and rejected w/r to claims 1-3 above.

Re claim 20, the claim has been analyzed and rejected w/r to claims 1-3 above.

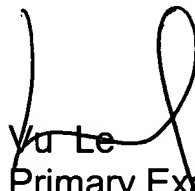The system and method in Seo (figs. 1-3) is a computer-implemented system/method.

Hence, a program with instructions to execute the steps of creating streaming video data would have been implied and necessitated.

Contact

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Le whose telephone number is 703-308-6613. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vu Le
Primary Examiner
AU 2613
(703) 308-6613
Vu.Le@uspto.gov